

unauthorized downloads of copyrighted works. Internet Relay Chat (IRC) channels and File Transfer Protocol (FTP) sites remain havens for theft of the newest software or pre-release movies. Chat rooms and other e-groups designed for needlework hobbyists have morphed into unrepentant sources of copyrighted needlework infringement, with one Yahoo!-run group alone hosting almost 50,000 pages of copyright-infringing needlework designs.

It might be argued that the breadth of illegal activity online merely reflects that found in the physical world. While that may be true, the online world presents unique challenges. The relative anonymity of the Internet, the technological savvy of some malefactors, and the sheer number of scams collectively make it difficult to investigate and prosecute many online illegalities. Further, current law does not, in some instances, adequately address the nature of these online illegalities, or take into account the novel techniques used in their commission.

Law enforcement authorities need additional resources and statutory authority to effectively deal with this rash of online scams, crimes, and illegalities. Together with H.R. 2517, which Representative CONYERS and I joined Representative LAMAR SMITH in introducing, the ACCOPS Act will go a long way to providing law enforcement with the tools they need.

Title I of the ACCOPS Act is directed at providing law enforcement agencies with adequate resources and coordination authority to enforce the criminal copyright laws. Section 101 authorizes the appropriation of not less than \$15 million for criminal copyright enforcement for fiscal year 2004. Section 102 requires the National Intellectual Property Law Enforcement Coordination Council (NIPLECC) to develop guidelines to ensure that its component members share amongst themselves law enforcement information related to infringement of U.S. copyrighted works. Section 103 enables Congress to better monitor the success of law enforcement efforts by requiring the Attorney General to submit biannual, instead of annual, reports on criminal copyright cases.

Title 11 addresses the unique law enforcement challenges posed by the transnational character of online copyright infringement. With increasing frequency, investigators of online infringements find that the infringers are located outside the United States. Section 201 is designed to ensure that federal law enforcement agencies do everything in their power to pursue even foreign infringers. Section 201 requires the Attorney General to provide to a foreign authority evidence to assist such authority in determining whether a person has violated any of the copyright laws administered or enforced by the foreign authority, or in enforcing such foreign copyright laws. By ensuring the appropriate foreign authority will receive all relevant information and possible assistance on the case, Section 201 increases the likelihood that the foreign infringer will be prosecuted.

Title III of the ACCOPS Act clarifies the application of criminal copyright laws in the online world, and creates a number of new federal offenses to deter a broad range of illegal activity online.

Section 301 clarifies that the uploading of a single copyrighted work to a publicly acces-

sible computer network meets the 10 copy, \$2,500 threshold for felonious copyright infringement. Section 301 simply brings the law into accord with the reality that uploading a copyrighted work to a place from which millions can download it is equivalent to the distribution of 10 or more copies having a value of \$2,500 or more. This clarification is necessary because some prosecutors appear skeptical that they can successfully pursue cases against many uploaders of copyrighted works. Even though uploaders are the real culprits in the illegal distribution of copyrighted works, it is downloaders who make the vast majority of copies of the uploaded work.

While Section 301 ensures that a public upload meets the felony threshold, the uploader will still only have criminal liability if he actually infringed the copyright in the uploaded work. More importantly, uploaders will only have criminal liability if they have infringed willfully. The standard for proving willfulness is quite high—requiring proving both knowledge and intent on behalf of the infringer—thus there is no threat that Section 301 will subject relatively innocent infringers to criminal liability.

Section 302 addresses the problem of hackers, spammers, unscrupulous P2P software developers, and other online scam artists who have been known to “hijack” the personal computers (PCs) of the unsuspecting, and use those computers to engage in a variety of illegal or unauthorized activities. A July 12, 2003 New York Times article described how some PCs have been hijacked to distribute pornography. Several recent hearings in both the House and Senate detailed how popular peer-to-peer (P2P) software programs sometimes allow 3rd parties to “hijack” PCs to distribute child pornography and copyright-infringing material, come bundled with “spyware,” and otherwise jeopardize the privacy and security of PC owners.

To address these problems, Section 302 requires that PC owners receive clear and conspicuous notice, and provide consent, prior to downloading software that would allow third parties to store material on the PC, or use that PC to search for material on other computers. Section 302 strikes a careful balance between ensuring that computer owners are fully informed, and empowered to deal with, the privacy and security risks inherent in some software, and preserving the freedom of software developers to innovate.

Section 303 addresses another technique frequently used to facilitate Internet scams and illegal activities. Web sites are often used to undertake a variety of illegal activities. Web sites may pose as legitimate payment processors in order to steal financial information, offer copyright-infringing material for download, or sell non-FDA approved drugs. In an effort to escape detection, the operators of these sites often provide false or misleading contact information when registering the domain name of the web site. Over the past several Congresses, hearings before the Judiciary Subcommittee on Courts, the Internet, and Intellectual Property have highlighted this problem. Law enforcement agencies, the Federal Trade Commission, privacy protection organizations, and intellectual property rights holders have all documented the extent to which false domain name registration information substantially inhibited law enforcement investigations, consumer protection initiatives, privacy protec-

tion missions, and the exercise of intellectual property rights.

Section 303 will address this problem by making it a federal offense to provide false contact information when registering a domain name. Section 303 makes it a Federal criminal offense to knowingly and with intent to defraud provide material and misleading false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering a domain name. The penalty is a fine, imprisonment for not more than 5 years, or both.

Section 304 deals with the growing phenomenon of copyright thieves who use portable, digital video recorders to record movies off the screen in theaters. While not of pristine quality, once one “camcorded” movie appears on the Internet, it quickly proliferates onto the P2P networks and back onto the street in the form of unprotected DVDs. Thus, even one camcorded movie can effectively defeat the best efforts of movie owners to protect their multimillion dollar investments against illegal distribution.

Section 304 makes it a Federal criminal offense to, without authorization, camcord a movie in a theater. Section 304 mirrors legislation in several states, but will be far more effective by having a national impact.

Section 305 is related to Section 303. When setting up web sites through which to infringe copyrighted works, the operators of those web sites often provide false domain name registration information. If their web site attract the attention of law enforcement or rights holders, the operators can then disconnect it without much fear of being caught, and pop up elsewhere under another domain name with different contact information.

Section 305 directs courts to consider the knowing and intentional provision of material and misleading false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering a domain name as evidence of willfulness with regard to copyright infringements committed by the domain name registrant through the use of that domain name. While a prosecutor is already likely to proffer false domain registration information as indicative of willfulness, enactment of Section 305 will ensure that courts accord this evidence appropriate weight.

In conclusion, I believe the ACCOPS Act, in combination with the previously-introduced H.R. 2517, will go a long way to stimulating and facilitating more effective investigation and prosecution of many online illegalities, most particularly criminal copyright infringements. I do not, however, claim that the ACCOPS Act is a perfect creation, nor that it contains every salutary proposal in this area. It may be that some further provisions need to be added, or some stricken. I do believe that it represents a positive step in the right direction, and will strongly advocate for its adoption.

ETHAN LANE GIBBS MAKES HIS
MARK ON THE WORLD

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 2003

Mr. ETHERIDGE. Mr. Speaker, I rise today to congratulate a former member of my staff,

Mr. Robert Gibbs, and his wife Mary Catherine on the birth of their first son, Ethan Lane Gibbs. Ethan was born on Tuesday, July 8, 2003, and he weighed 10 pounds and 5 ounces. As Robert has noted, Ethan is a big boy, a trait gained from his father, and a beautiful baby, a trait passed down by his mother. My wife Faye joins me in wishing Robert and Mary Catherine great happiness during this very special time in their lives.

As a father of three, I know the immeasurable pride and rewarding challenge that children bring into your life. The birth of a child changes your perspective on life and opens the world to you in a fresh, new way. Their innocence keeps you young-at-heart. A little miracle, a new baby holds all the potential of what human beings can achieve.

With great pleasure, I welcome young Ethan into the world and wish Robert and Mary Catherine all the best as they raise him.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2004 AND 2005

SPEECH OF

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1950) to authorize appropriations for the Department of State for the fiscal years 2004 and 2005, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal years 2004 and 2005, and for other purposes:

Ms. SCHAKOWSKY. Mr. Chairman, I am pleased today to speak in support of my amendment to H.R. 1950, the State Department Authorization bill, which expresses the sense of the Congress that the Secretary of State should provide adequate resources to United States Embassies and Consular Offices in order to meet the workload requirements for visa application processing.

The State Department recently issued a rule requiring nearly all visa applicants who wish to come to the United States for travel, business, or study to have personal interviews at Embassies or Consular Offices. This rule will significantly increase the amount of work and time Embassies and Consulates must give to each visa applicant. In Fiscal Year 2002, nearly 5.8 million business and tourist visas were issued and it is estimated that, in some countries, as few as 20 percent of applicants were required to be interviewed. While I support necessary security precautions, this new rule will clearly result in months of backlogs that could seriously jeopardize American business, education, and tourism unless these offices are provided with adequate resources and personnel to handle the increased workload.

Unfortunately, the Secretary of State has expressed to U.S. Embassies and Consulates that he "expects and accepts that many posts will face processing backlogs for the indefinite future." Furthermore, the message from the State Department in Washington, DC, is that, while posts can request more personnel, for the most part, they "must implement the new interview guidelines using existing resources. Posts should not, repeat not, use overtime to deal with additional workload requirements."

Requiring our Foreign Service officers to take on a vastly increased workload without also providing the resources necessary to support that work may actually undermine our national security. It is unclear that overworked staff who are forced to conduct personal interviews with thousands of visa applicants will be able to adequately identify terrorists and other potentially harmful visitors in what are reportedly two to three minute interviews. Instead, these workers will be more likely to miss important details in visa applications as they rush to keep up with additional work requirements. Only by providing sufficient resources to meet the new interview requirements can we ensure that the steps we take to implement more stringent security protections will effectively safeguard our Nation from those who may wish to do us harm.

Furthermore, if we are to remain a respected nation and an ally to countries around the world, it is critical that people be able to travel to the United States for business and pleasure without unnecessary hurdles of burdens. It is also critical for our economy, which depends on tourism and on conducting business with foreign nationals in order to stay strong, that people be able to travel to the United States without unnecessary inconveniences. Long wait times and growing backlogs of visa applications will serve to do the opposite and discourage people from coming to the United States to spend money and conduct business.

I have heard from my constituents of people missing business meetings, important family events, and opportunities to study at American universities because it took too long for their visa application to be processed. For example, we have heard about three month waiting periods in Israel, one of our closest allies, which prevented a young Israeli from coming to the U.S. to work as a camp counselor. In another example, a group of Indian performers who were set to tour the United States will miss their performance in Chicago this weekend because they were not approved in time. And three people from Jakarta will miss their business meeting next week because their visa was not accepted in time. Finally, a young man had to postpone a wedding reception he had been planning for months because visa backlogs prevented his fiancée from getting to the United States from South Korea in time.

It is because of situations like these and countless others that we must provide our Embassies and Consulates with adequate resources to meet the needs of visa applicants. It is because of our national security interests that we must provide our Foreign Service officers the resources they need to do their jobs well. I am pleased that this amendment was accepted into the en bloc amendment, and I thank Chairman HYDE and Ranking Member LANTOS for their support.

WORKING GROUP ON WASTE, FRAUD, AND ABUSE SPECIAL ORDER

HON. TRENT FRANKS

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 2003

Mr. FRANKS of Arizona. Mr. Speaker, President Calvin Coolidge wisely said, "The

men and women of this country who toil are the ones who bear the cost of the government. Every dollar we carelessly waste means that their life will be so much the more meager. Every dollar that we prudently save means that their life will be so much the more abundant."

Mr. Speaker, the men and women of this country deserve fiscal responsibility and careful spending. They deserve the peace of mind that comes from knowing that we are doing all we can to prudently save, and we are working to find ways to ensure life more abundant.

I believe every department of government can and must examine ways to more efficiently use taxpayer dollars to improve the lives of all Americans. Today I would like to discuss specifically just one: the Department of Education.

Citizens Against Government Waste say, "the Department [of Education] now employs nearly 5,000 people, close to 1000 percent increase from 1979, yet ED spending for public schools accounts for less than 6 percent of total education spending. There are currently 780 education programs spread throughout 39 Federal agencies, costing taxpayers \$100 billion annually . . . In addition, the average amount spent on each public school student has skyrocketed. In 1965, the average SAT score was 980 and slightly less than \$3,000 was spent per student. More than 30 years later, the average SAT score is 910 and about \$6,500 is spent per pupil."

The reckless swelling of this Department is not an indication of success. Our children deserve money better spent, that is, taxpayer dollars going for what they were intended: a quality education. Pouring more money into a deficit system will not improve education. Instead, it will further weaken the kind of education that our young people deserve.

In the state of Arizona, the average cost of an hour of tutoring at the Sylvan Learning Center is \$40. Ending the practice of fraudulent disability loan deferment represents what could be one billion hours of private tutoring, quality one-on-one hours that could potentially make a profound difference in the education of a child.

According to the Inspector General of the Education Department Lorraine Lewis, also in 1999, the Department of Education made a number of improper payments, including about \$125 million in duplicate payments to 45 different grantees, \$664,000 in duplicate payment to 51 different schools and a \$6 million double payment to a single school.

These duplicate payments are unacceptable and irresponsible.

A double payment of \$125 million dollars represents the opportunity for 869 Arizonans to attend four tuition-free years at Arizona State University.

Some may say figures like \$6 million, or \$664,000, are not even worth mentioning or tracking in a system spending hundreds of billions of dollars. I think that line of reasoning is exactly why Department of Education is so fraught with financial mismanagement. It is time we examine how to better spend millions, hundreds of thousands, and even thousands of hard-earned taxpayer dollars, and set a new standard of accountability to those who "toil to bear the cost of government."